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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 2011-627

13 **DIANA DAWN SIMS**

14 1885 Addison Drive
Turlock, CA 95382

STATEMENT OF ISSUES

15 Applicant for Registered Nurse License

16 Respondent.

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20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed, RN ("Complainant") brings this Statement of Issues solely in
23 her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
24 Department of Consumer Affairs.

25 2. On or about April 20, 2010, the Board received an application for a registered nurse
26 license from Diana Dawn Sims ("Respondent"). On or about April 14, 2010, Respondent
27 certified under penalty of perjury to the truthfulness of all statements, answers, and
28 representations in the application. The Board denied the application on August 9, 2010.

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1 in a manner dangerous or injurious to himself or herself, any other person, or the
2 public or to the extent that such use impairs his or her ability to conduct with safety to
the public the practice authorized by his or her license.

3 (c) Be convicted of a criminal offense involving the prescription,
consumption, or self administration of any of the substances described in subdivisions
4 (a) and (b) of this section ...

5 6. Code section 2765 states:

6 A plea or verdict of guilty or a conviction following a plea of nolo
7 contendere made to a charge substantially related to the qualifications, functions and
8 duties of a registered nurse is deemed to be a conviction within the meaning of this
9 article. The board may order the license or certificate suspended or revoked, or may
10 decline to issue a license or certificate, when the time for appeal has elapsed, or the
11 judgment of conviction has been affirmed on appeal or when an order granting
probation is made suspending the imposition of sentence, irrespective of a subsequent
12 order under the provisions of Section 1203.4 of the Penal Code allowing such person
13 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
14 the verdict of guilty, or dismissing the accusation, information or indictment.

12 FIRST CAUSE FOR DENIAL

13 (Criminal Conviction)

14 7. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,
15 subdivision (f), 480, subdivision (a)(1), and 480, subdivision (a)(3)(A), in that on or about June
16 25, 2010, in the criminal proceeding titled *People v. Diana Dawn Sims* (Super. Ct. San Joaquin
17 County, 2010, Case No. MM120056A), Respondent pled nolo contendere to violating Vehicle
18 Code section 23152, subdivision (b) (driving while having a .08% or higher blood alcohol, a
19 misdemeanor), a crime substantially related to the qualifications, functions, and duties of a
20 registered nurse. Respondent's blood alcohol content ("BAC") measured at 0.15%.

21 a. The circumstances of the crime are as follows: On or about January 2, 2010, a
22 Ripon Police Department peace officer observed Respondent's GMC Yukon traveling
23 approximately 20 miles per hour below the posted speed limit and impeding traffic in the right
24 lane of Highway 99. He observed Respondent weaving within the lane and repeatedly drifting to
25 the right fog line before correcting the vehicle back to the center of the lane. The officer followed
26 Respondent's vehicle over a distance of approximately 1.5 miles. The officer activated his code 3
27 lights and siren, but Respondent failed to yield and continued driving approximately 50 miles per
28 hour on the freeway. After driving another half mile, Respondent finally pulled to the right and

1 stopped her vehicle. The officer contacted Respondent and noticed her slurred speech, red and
2 watery eyes, slack facial expression, and a strong odor of an alcoholic beverage on her person.

3 The officer also observed Respondent had a passenger in her vehicle. Respondent admitted to
4 drinking four or five 12-oz. Bud Lite beers at a local bar. The results of Respondent's EPAS test
5 was 0.15% BAC.

6 **SECOND CAUSE FOR DENIAL**

7 **(Use of Alcohol to Extent or in Manner
8 Dangerous or Injurious to Self and Others)**

9 8. Respondent's application for a registered nurse license is subject to denial pursuant to
10 Code sections 2761, subdivision (a), 2762, subdivision (b), and 480, subdivision (a)(3), in that on
11 or about January 2, 2010, she used or consumed alcoholic beverages to an extent or in a manner
12 dangerous or injurious to herself, others, and the public, as set forth in paragraph 7 above.

13 **THIRD CAUSE FOR DENIAL**

14 **(Criminal Conviction Involving Alcohol)**

15 9. Respondent's application for a registered nurse license is subject to denial pursuant to
16 Code sections 2761, subdivision (a), 2762, subdivision (c), and 480, subdivision (a)(3), in that on
17 or about June 25, 2010, Respondent was convicted of a criminal offense involving the
18 consumption of alcoholic beverages, as set forth in paragraph 7 above.

19 **PRAYER**

20 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Denying the application of Diana Dawn Sims for a registered nurse license;

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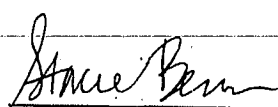
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2. Taking such other and further action as deemed necessary and proper.

DATED: 1-13-2011

for 
LOUISE R. BAILEY, M.Ed, RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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